

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

JOSEPH F. HUTCHISON, <i>et al.</i>,)	Case No. 1:01-789
)	
Plaintiffs,)	(Judge Beckwith)
)	
-v-)	
)	DECLARATION OF
FIFTH THIRD BANCORP,)	<u>PATRICK F. FISCHER</u>
)	
Defendant.)	

I, Patrick F. Fischer, being first cautioned and sworn according to law, depose and state as follows:

1. Attached hereto are true and correct copies of emails forwarded to and from counsel for both parties setting up deposition schedules.

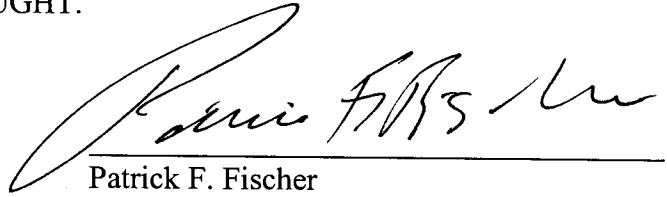
2. As noted in each of those emails, my client and my office have always taken the position that there are just two named Plaintiffs in the above-entitled and numbered cause.

3. The language we used was specific: "the two Plaintiffs." In two emails dated March 18, 2005 and March 19, 2005, my office wrote to opposing counsel: "I assume the two plaintiffs are both available those days?" and "We still intend on going ahead with the 2 plaintiffs (sic) depositions on one of those 2 dates," respectively.

4. Only after discovery closed in this case did opposing counsel inform my office that they intended to file a Motion for Class Certification in the "next week or so."

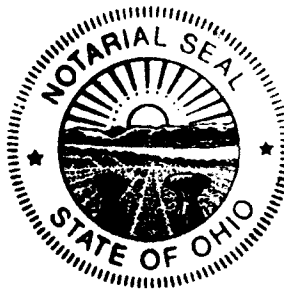
5. However, no such motion was filed in the week or even two weeks after my office was so notified. It was only after all depositions had been completed that we received a Motion for Class Certification on or about June 25, 2005.

FURTHER AFFIANT SAYETH NAUGHT.


Patrick F. Fischer

Sworn to before me and subscribed in my presence on this the 28th day of July, 2005.


Notary Public



LOIS M. SINGLETON
Notary Public, State of Ohio
My Commission Expires
January 10, 2006

Fischer, Patrick F.

REDACTED

-----Original Message-----

From: Fischer, Patrick F.
Sent: Saturday, March 19, 2005 10:20 AM
To: 'jhill@dbllaw.com'
Cc: Erhart, Sue A.
Subject: RE: Henn vs. Fifth Third

Juanita:

As noted in Sue's email, neither we nor our client cannot provide witnesses if we are not sure whom Rick wants to depose. If we could have names or if Rick could describe the position/information wanted, it would be helpful. When we receive that, we will contact the client. However the names/positions/information desired may alter the dates our people can be available. We still intend on going ahead with the 2 plaintiffs depositions on one of those 2 dates.

Your help would be appreciated.

Patrick Fischer

-----Original Message-----

From: Erhart, Sue A.
Sent: Friday, March 18, 2005 3:55 PM
To: 'jhill@dbllaw.com'
Cc: Fischer, Patrick F.
Subject: RE: Henn vs. Fifth Third

Juanita,

We still haven't heard from you as to the names of the Fifth Third employees Rick wants to depose. Also, both the 31st and 1st are free on our end for depositions. I assume the two plaintiffs are both available those days? Last, in the subject line, you mistakenly refer to the case as Henn v. Fifth Third. That should be Hutchison v. Fifth Third (the two plaintiffs are Hutchison and Buccheid).

Please call with any questions.

Sue Erhart

-----Original Message-----

From: jhill@dbllaw.com [mailto:jhill@dbllaw.com]
Sent: Tuesday, March 01, 2005 12:01 PM
To: Erhart, Sue A.

Subject: Henn vs. Fifth Third

Sue:

Rick has asked me to contact you and obtain some available dates from you for depositions in this case. He would like to schedule 2 days (preferably back-to-back). He said he spoke to you previously about the three (3) Fifth Third employees he would like to depose. He will make his two (2) clients available.

Dates Available: Thursday, 3/24/05 - - all day
Friday, 3/25/05 - - all day
Monday, 3/28/05 - - all day
Tuesday, 3/29/05 - - all day
Thursday, 3/31/05 - - all day
Friday, 4/01/05 - - all day.

Will any of the above work for you. I have tentatively placed a hold on these dates. Please contact me as soon as possible so that I can schedule the conference room and court reporter.

Thank you.

Juanita.

Juanita B. Hill
Legal Assistant to
Richard G. Meyer, Esq.
Deters, Benzinger & LaVelle, P.S.C.
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